



Chapter 38

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Chapter 38

WATER, SEWERS AND SEWAGE DISPOSAL

ARTICLE I. IN GENERAL

Sec. 38-1. Water wells--Drilling Permit.

It shall be unlawful for any person to drill or commence to drill a water well in the city limits without first obtaining a water well drilling permit from the water superintendent.

Sec. 38-2. Same--Covering.

Each person owning a water well or hereafter owning or drilling a water well in the city shall enclose such well with a cement covering or other covering equally as good and of sufficient quality and construction to keep mosquitoes, flies, rats and all other animals, insects and foreign matter from entering such well, and sufficient to prevent the well from becoming unsanitary for any reason whatsoever.

Sec. 38-3. Same--Not to be connected with public water system.

It shall be unlawful for any person to connect any private water well with any pipe, water main or any other portion of the public water system of the city. The city shall have the right to disconnect any connection in violation of this section.

Sec. 38-4. When sewer connections required.

Each property owner owning a lot or plot of ground in the city on which there is located a house or dwelling occupied or capable of being occupied by human beings, which lot or plot of ground is located within two hundred (200) feet of a city sewer line, is hereby required to connect such house or dwelling with the sewer line at his expense, if the sewer line is lower than such residence or dwelling connection, and toilet facilities and keep the same connected at all times with the city sewer line so that the occupants of the house, or dwelling shall at all times use the sewer facilities of the city.

Sec. 38-5. Construction and use of septic tanks and cesspools.

It shall be unlawful for any person to construct, use, keep, maintain, or allow to be constructed, used, kept or maintained, a septic tank or cesspool used for toilet purposes by human beings on any lot or plot of ground where a sewer connection is required by section 38-4. If such lot or plot of ground is so located that such sewer connection is not required, the owner or occupant thereof may construct and use, for toilet purposes, a septic tank or cesspool of a type and design approved by the state health department, but the construction or use of any other type of septic tank or cesspool on such lot or plot of ground is hereby declared to be unlawful.

Sec. 38-6. Pit toilets prohibited.

It shall be unlawful for any person to construct, use, keep, maintain, or to allow to be constructed, used, kept or maintained, a pit toilet for toilet purposes of human beings on any lot or plot of ground located within the city limits.

Sec. 38-7. Unlawful deposit of sewage.

It shall be unlawful for any person to deposit or place any human excreta upon the ground or in any other way so as to expose it to the air or to flies on any lot or plot of ground within the city. It shall likewise be unlawful for the owner or controller of any premises, or for any other person to permit or allow any foul or unwholesome fluid, fecal or urinal matter, fluid or substance, or washings or slops from any kitchen, laundry, or private or public house or place, to run into or be deposited in any excavation, pit, sink or well.

Sec. 38-8. Connections to city systems to be made by water and sewer departments.

All connections with water and sewer mains and laterals in the city shall be done by employees of the water and sewer department of the city, and under the supervision of the water and sewer superintendent, and it shall be unlawful for any other person to make any connection with any water or sewer main or lateral in the city.

Sec. 38-9. Applicants and work order for connections with city systems.

Any person who desires a connection with the water and sewer mains and laterals of the city shall make application therefore to the water and sewer department, on forms prescribed by it, at least two (2) days in advance of the time such connection is desired to be in effect; whereupon the work order shall be issued and all laying of pipes from such main or lateral to the property line shall be done by the city.

Sec. 38-10. Same--New construction.

(a) *Terms defined.* The term "new user" when used in this section shall mean any landowner, developer or other person who connects to a newly constructed sewer trunk main, water distribution main or similar facility which is a part of the city's water and sanitary sewer system or part of a system which is managed or operated by the city when that landowner, developer or other person is either not presently served in that particular area by the city water and sanitary sewer system or who receives upgraded service. The term "upgraded service" shall mean service in the form of increased capacity due to an increase in the size of the line or other improvement which is a part of the new construction.

(b) *Authorization for one-time charge for new users.* The following charge shall be made and collected by the water and sewer department for each water and sewer tap connection demanded by a "new user" resulting from newly constructed sewer trunk mains, water distribution mains, lift stations and similar facilities:

(1) A one-time connection fee of thirty-one cents (\$0.31) per gallon of daily flow for

connections by a new user into or onto the Fryers Creek Trunk Sewer Project.

(2) A one-time connection fee per gallon of daily flow determined by dividing the cost of the improvements by the total daily capacity of the line to be charged to all new users of newly constructed or improved sewer trunk mains, water distribution mains, lift stations and other similar facilities. Provided, however, the exact connection fee to be charged for each project shall be determined by the superintendent of water utilities and approved by the city council taking into consideration the above mentioned formula and any factors which may be reasonably considered in determining the exact connection fee.

(3) Nothing herein shall prevent the city through its superintendent of water utilities from utilizing the water and sewer extension and rebate procedures set forth in Article III of this chapter as an alternative to the connection fee set forth herein.

Sec. 38-11. Interfering with or injuring water equipment or apparatus.

It shall be unlawful for any person to interfere with or injure in any manner any reservoir, tank, fountain, pipe, stop cock, valve or other apparatus pertaining to any water system in the city, or to turn on or off, without authority, the water in any street hydrant or other water fixture.

Sec. 38-12. Pollution of water sources generally.

It shall be unlawful for any person in this city to bathe his hands, face, feet or any other portion of his body in, or pollute or make foul the water of any public or private cistern, tank, spring or well, or to water any animal in any spring. Likewise, any person who shall place, throw or deposit in any well, cistern, tank, fountain, spring or other place containing water in this city, any substance or liquid whatever, calculated to pollute, poison or render unwholesome the water therein, shall be deemed guilty of a misdemeanor.

Sec. 38-13. Pollution of Knob Creek.

It shall be unlawful for any person within the corporate limits of the city to throw, place, put, conduct or deposit into Knob Creek, or any tributary, ditch, drain, gutter, gulley, pipe receptacle or conduit leading into Knob Creek or any tributary thereof, any filth, foul matter, offal, refuse, slops, vegetable matter, human or animal excrement, alvine or fecal matter or any carcass or any part of any dead animal, fish or fowl, or soapy water, suds, dishwater, soapsuds or any water impregnated with soap, pearline, washing powder or any substance or preparation of any nature whatever used in water to aid in its cleansing effect, or any liquid or substance of any nature, kind, class or character whatever that may pollute the waters of Knob Creek or that may be calculated to rot or decay or cause to become putrid or foul or make the water of Knob Creek putrid or foul. It shall be unlawful for any person within the corporate limits of the city to cause, suffer or permit any violation of this section upon any premises owned or occupied by him or controlled by him as agent, lessee, manager or otherwise.

Sec. 38-14. Leon River Reservoir--Swimming and fishing prohibited at certain location.

It shall be unlawful for any person to swim or fish in or on the waters of the Leon River Reservoir, located on the Leon River between the cities of Temple and Belton, at any place between the banks of the reservoir and between the dam located just south of the highway bridge across the reservoir on U.S. Highway No. 81, and a point two thousand eight hundred (2,800) feet up the river from the location of the water intake pipe of the city, located on the East bank of the reservoir.

Sec. 38-15. Same--Boating prohibited at certain location.

It shall be unlawful for any person to ride in a boat, on a raft or any other conveyance placed in or on the waters of the Leon River Reservoir between the dam and a point two thousand eight hundred (2,800) feet up the river from the water intake pipe of the city.

Sec. 38-16. Same--Deposit of foreign substances.

It shall be unlawful for any person to place any boat, log, stick, can, bucket, trash, debris or foreign substance of any kind in the water of the Leon River Reservoir between the dam and a point two thousand eight hundred (2,800) feet up the river from the location of the water intake pipe of the city.

Sec. 38-17. Polyvinyl chloride (PVC) pipe; minimum specifications.

(a) Four (4) inch through twelve (12) inch polyvinyl chloride (PVC) pipe which meets the minimum specifications set out in paragraph (b) hereof may be used for the Temple municipal water main distribution system under the guidelines set out herein.

(b) Material specifications for four (4) inch through twelve (12) inch polyvinyl chloride (PVC) pipe for use in the Temple municipal water main distribution system shall be as follows:

(1) Scope and product:

- a. Requirements for unplasticized polyvinyl chloride (PVC) pipe for municipal distribution systems. There shall be a minimum pressure classification of one hundred fifty (150) pounds per square inch (psi) and dimension ration (DR) of eighteen (18). The pipe class and DR will be indicated on plans.
- b. The pipe shall meet or exceed requirements of AWWA C-900, PVC pipe with cast iron outside dimensions and with rubber ring gaskets. PVC water pipe shall be listed by Underwriters' Laboratories and approved for use in cities and towns of Texas by the state board of insurance. The rigid PVC pipe shall bear the seal of approval (or "NSF" mark) of the National Sanitation Foundation Testing Laboratory for potable water pipe. Provisions must be made for the contraction and expansion at each joint with a rubber ring, and an integral thickened bell,

- twin-gasketed coupling, or integral sleeve as part of each joint. Pipe and fittings must be assembled with a nontoxic lubricant. Laying lengths shall nominally be twenty (20) feet plus or minus (\pm) one inch (Laying lengths of ten (10) feet or thirteen (13) feet may be utilized for pipe lines laid on a curve when deemed appropriate by the city engineer.)
- c. Pipe shall be made in nominal size of four (4) to twelve (12) inches, and shall meet the dimension ratios (DR's) and physical dimensions as shown in Table 2, save and except that the minimum pressure class shall be one hundred fifty (150) pounds per square inch (psi) and minimum DR shall be eighteen (18).

TABLE 2

Dimensions and Pressure Classes for Dimension Ratio (DR) for PVC 1120 Pipe With Cast-Iron Pipe-Equivalent OD's

| Nominal Size--in. | Pressure Class* at 73.4F(23C) --psi | DR | OD--in. Average | Wall Min. Tolerance | Thickness--in. Tolerance |
|----------------------|---|----|--------------------|---------------------------|-----------------------------|
| 4 | 150 | 18 | 4,800 | ± 0.0090 | +0.032 |
| 4 | 200 | 14 | 4,800 | ± 0.0090 | +0.041 |
| 6 | 150 | 18 | 6,900 | ± 0.0110 | +0.046 |
| 6 | 200 | 14 | 6,900 | ± 0.0110 | +0.059 |
| 8 | 150 | 18 | 9,050 | ± 0.0150 | +0.060 |
| 8 | 200 | 14 | 9,050 | ± 0.0150 | +0.078 |
| 10 | 150 | 18 | 11,100 | ± 0.0150 | +0.074 |
| 10 | 200 | 14 | 11,100 | ± 0.0150 | +0.095 |
| 12 | 150 | 18 | 13,200 | ± 0.0150 | +0.088 |
| 12 | 200 | 14 | 13,200 | ± 0.0150 | +0.113 |

(2) *Materials.* Pipe shall be made from NSF-approved Class 1245-4A or B PVC compound, conforming to ASTM resin specification D1784.

(3) *Hydrostatic routine test.* Each length of pipe shall be tested to four (4) times the class pressure of the pipe for a minimum dwell of five (5) seconds. Field testing shall be done under a separate specification.

(4) *Service taps:*

- a. All corporation cocks shall be installed using the proper service clamp or saddle for PVC pipe that:
 1. Provides full support around the circumference of the pipe;
 2. Provides a bearing area of sufficient width (two (2) inches minimum)

along the axis of the pipe;

3. Is constructed of bronze, stainless steel or epoxy coated cast iron.

- b. All taps will be made with an approved bit/cutter for PVC pipe designed to remove/retain the shavings and plug. Any tap larger than two (2) inches will require use of a tapping sleeve and valve.

(5) *Certification.* When requested, the manufacturer will furnish certification that pipe meets all requirements of this specification.

Secs. 38-18--38-29. Reserved.

ARTICLE II. CUSTOMER SERVICE

Sec. 38-30. Definitions.

The following definitions shall be applicable to this article:

Business days. All days, other than Saturday, Sunday and holidays on which the Utility Business Office is closed under authority of the City Council, are declared to be "business days."

Class A service means water, sewer service, or both provided for a dwelling designed and constructed for occupancy by one family, including mobile and HUD-code manufactured homes which are used as dwellings and which are not located in a mobile home or recreational vehicle park.

Class B service means water, sewer service, or both provided for any location except a dwelling designed and constructed for occupancy by one (1) family. Class B sewer service includes but is not limited to service for office, church, retail, business, commercial, industrial, governmental and manufacturing users; mobile and HUD-code manufactured homes not used as dwellings, or located in mobile home parks and recreational vehicle parks; and dwellings designed and constructed for occupancy by more than one family, such as apartments, duplexes and four-plexes.

Good payment history means that for the previous twelve (12) consecutive months, service has been maintained in the customers' name (including transfers, new meters and address changes) without having service disconnected for non-payment and without having more than two penalties assessed for late payment.

Office hours. The Utility Business Office shall be open for all purposes on all business days from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Sec. 38-31. Rates, deposits, penalties and service charges.

The Utility Business Office is hereby authorized to charge and collect monthly service charges for water and sewer service, security deposits, penalties and other charges established by ordinance or resolution. The amounts to be charged shall be established by Resolution of the City Council and adjusted from time to time as necessary to sustain efficient utility services and comply with laws and regulations.

Sec. 38-32. City divided into zones for billing purposes.

The Utility Business Office may divide utility service areas into geographical zones for billing purposes. A current map of billing zones shall be maintained and made available for public inspection in the Utility Business Office.

Sec. 38-33. When bills due.

The minimum monthly billing cycle for utility services shall be as follows:

- (a) The invoice date is the date that payment becomes due.
- (b) The penalty date, which shall never be less than 16 days from date invoice issued, is the date that penalty for late payment becomes due.
- (c) The disconnect date, which shall never be less than 10 days after the penalty date, is the date that utility service may be disconnected for non-payment.

For purposes of scheduling services of the Utility Business Office, billing cycles may be staggered by billing zones.

Sec. 38-34. Contents of invoice.

Utility invoices are due on the date the invoice for service is issued. Invoices shall provide the following information:

- (a) Customer information
 - (1) Account number
 - (2) Customer number
 - (3) Date invoice issued
 - (4) Water meter reading in 100 gallons
 - (5) Winter water average, if applicable
- (b) Consumption information
 - (1) Meter read date
 - (2) Billing period
 - (3) Present reading
 - (4) Previous reading
- (c) Customer charges
 - (1) Previous balance
 - (2) Water

- (3) Sewer
- (4) Sanitation
- (5) Drainage
- (6) Cost sharing fees
- (7) Sales tax
- (8) New connect fee
- (9) Re-read charge
- (10) Transfer fee
- (11) Miscellaneous charges
- (12) Disconnect charge
- (13) Amount due on date invoice issued
- (14) Amount due late charge
- (15) Date on which service may be disconnected for non-payment

Sec. 38-35. Failure to receive bill does not excuse nonpayment.

A customer's failure to receive a utility bill shall not excuse failure to pay the same before it becomes delinquent.

Sec. 38-36. When deposit required-Class A service.

(a) *Deposits required.* Customers requesting new Class A service or requesting reconnection following disconnection for non-payment shall be required to post a deposit if the customer's utility service at any address has been disconnected for nonpayment or the customer has not established good payment history.

(b) *Deposits not required.* Customers requesting new Class A service or an additional meter at the same service address shall be exempt from posting a deposit when the following conditions are met:

- (1) The customer has established good payment history; or
- (2) A letter of reference citing good payment history from another utility is submitted to the Business Office; or
- (3) For persons employed in the U. S. armed forces, a Base Authorization Quarters (BAQ) certificate is submitted; or
- (4) Any owner or manager of rental property who has a utility account that is not overdue requests 10-day cleanup service for the rental property. A flat fee covers water and sewer service for a maximum of ten (10) days and two thousand (2,000) gallons of water. Consumption exceeding 2,000 gallons of water is billed at the regular rate.
- (5) The City Manager is authorized to waive utility deposits for service in the event of a state or federal emergency declaration, when he determines it is in the best interest of the City to do so.

(c) *Deposits refunded.* Deposits posted to secure Class A service accounts shall be refunded whenever the customer establishes good payment history. Months for which service was temporarily disconnected at the customer's request are counted. Refunds of deposits shall be paid by check. Checks shall be mailed monthly to eligible customers.

Sec. 38-37. When deposit required-Class B service.

(a) *Deposits required for certain categories of businesses.* Customers requesting new Class B service for property used as a restaurant, tavern, private club, apartment, hotel, or motel shall post a deposit in an amount established by resolution of the City Council.

(b) *Deposits required-generally.* Customers requesting new Class B service or requesting reconnection following disconnection for non-payment shall be required to post a deposit if the customer's utility service at any address has been disconnected for nonpayment or the customer has not established good payment history.

(c) *Deposits not required.* Customers-other than the categories excluded in part (a) of this section-requesting new Class B service or an additional meter at the same service address shall be exempt from posting a deposit when the following conditions are met:

(1) The customer has established good payment history; or

(2) A letter of reference citing good credit history from another utility is submitted to the Business Office; or

(3) Any owner or manager of rental property who has a utility account that is current requests 10-day cleanup service for the rental property. A flat fee covers water and sewer service for a maximum of ten (10) days and two thousand (2,000) gallons of water. Consumption exceeding 2,000 gallons of water is billed at the regular rate.

(4) Deposits shall not be required for service provided to federal, state or local government entities; or

(5) The Temple Economic Development Corporation requests waiver of the deposit as an economic development incentive.

(6) The City Manager is authorized to waive utility deposits for service in the event of a state or federal emergency declaration, when he determines it is in the best interest of the City to do so.

(d) *Deposits refunded.* Deposits for service to categories listed in part (a) of this section are not refundable until the account is closed. Deposits posted to secure Class B service accounts shall be refunded whenever the customer has established good payment history. Months for which service was temporarily disconnected at the customer's request

are counted. Refunds of deposits shall be paid by check. Checks shall be mailed monthly to eligible customers.

Sec. 38-38. Delinquencies-penalties.

A utility service accounts becomes delinquent if payment is not received by the Utility Business Office before 5:00 p.m. on the penalty date shown on the customer's invoice. A check or bank draft that is dishonored by the customer's bank does not constitute payment of a utility service account.

A late charge or penalty shall be applied only to current monthly charges of fifteen dollars (\$15.00) or more. Late charges shall not be assessed against federal, state or local governmental entities.

Sec. 38-39. Delinquencies-reminder notices.

Prior to disconnection of service for non-payment of any customer charges shown on the invoice, the Utility Business Office will send a reminder notice to customers whose accounts have become delinquent. Utility service shall be disconnected when delinquent charges equaling or exceeding the minimum utility services billing rate are not paid *before* the Disconnect Date shown on the customer's invoice. Failure to receive a reminder notice shall not excuse non-payment or prevent disconnection.

Service will not be disconnected for failure to pay the current penalty. Failure to pay penalties assessed in prior months will result in disconnection.

Sec. 38-40. Delinquencies-Application of Deposit to Unpaid Charges.

Deposits shall be applied to unpaid charges when an account is closed for any reason. When the deposit is insufficient to satisfy the unpaid charges, the Utility Business Office will bill the customer for any deficiency greater than two dollars (\$2.00).

Sec. 38-41. Returned check policy.

A fee shall be charged for processing each check or bank draft given in payment for utility services which is dishonored by the customer's bank for any reason. On or after the disconnect date shown on the customer's invoice, utility service is subject to immediate disconnection when the City's bank notifies the City that the customer's check or bank draft has been dishonored.

The Utility Business Office will not accept payments made by check or bank draft for charges owed on any utility accounts of a customer who has had three (3) or more checks dishonored within a period of one (1) year. Payments must be made by cash, cashier's check or money order until the customer has maintained service in the name (including transfers, new meters and address changes) for at least twelve (12) consecutive months,

without having service disconnected for non-payment or two or more penalties assessed for late payment.

Sec. 38-42. Reconnection after disconnection for non-payment.

Utility customers whose service has been disconnected for non-payment are entitled to have service reconnected upon payment of the following charges:

- (a) utility charges which are due or delinquent;
- (b) reconnect-disconnect fee;
- (c) service charges incurred for tampering with or damaging meters, padlocks and locking devices; and
- (d) deposit in the amount which would be required to institute new service.

A Base Authorization Quarters (BAQ) certificate shall not be accepted in lieu of a deposit following disconnection for non-payment.

Persons requesting new service at an address where service has been disconnected for non-payment must present evidence of a lease, rental agreement or other real property transaction, for purposes of verifying that service is not being restored to the customer whose non-payment precipitated disconnection. Persons who reside with a customer whose service has been disconnected for non-payment are not eligible for new service at that residence until all conditions for reconnection are met.

Sec. 38-43. Liens for delinquent utility bills.

The Utility Business Office may impose a lien against property that is not protected by the Texas Constitution as a homestead, for delinquent bills for municipal utility service to the property. Liens for delinquent utility bills shall be perfected by recording in the real property records of the county where the property is located a notice of lien containing a legal description of the property and the account number for the delinquent charges. Liens may include penalties, interest and collection costs. A lien for utility service is inferior to a bona fide mortgage lien that is recorded before the recording of the City's lien in the real property records of the county where the property is located. The City's lien is superior to all other liens, including previously recorded judgment liens and any liens recorded after the City's lien.

A lien shall not apply to bills for service connected to a tenant's name after notice by the property owner to the municipality that the property is rental property. A lien shall not apply to bills for service connected in a tenant's name prior to March 4, 1993.

Sec. 38-44. Voluntary disconnection.

A disconnect fee is charged for temporary disconnection. The Utility Business Office shall disconnect water utility service on request of a customer, by telephone, for Class A or Class B service, when the customer can provide proper account information for

purposes of identification. The requirement for identification is intended to protect customers from disconnection initiated by unauthorized persons.

Sec. 38-45. Separate water meter for each residence or apartment.

The City shall install a separate water meter for each separate residence which is not divided into apartments. The City shall also install a separate water meter for each apartment of each residence and apartment building, except when the owner of such residence or apartment building assumes all liability for water and sewer services furnished such residence or apartment building.

Sec. 38-46. Water charge when meter fails or becomes defective.

A service charge will be charged for meter testing requested by a customer if testing shows that meter was not out of tolerance in either direction. Whenever a water meter installed by the city fails or becomes defective, the meter shall be replaced and such customer shall be charged a monthly fee equal to the average of the last three (3) normal months' consumption. This average fee shall be assessed for each month the meter was defective.

Sec. 38-47. Re-reading of water meters.

A fee shall be charged for rereading a water meter at the customer's request, unless it is found that the prior reading was in error.

Sec. 38-48. Fire hydrant meters.

After March 4, 1993, a fire hydrant meter will be installed and relocated only by service personnel of the Water Department. Fire hydrant meters rented by customers prior to March 4, 1993, must be returned to the Water Department by June 1, 1993, for processing in accordance with this section.

Requests for installation of a fire hydrant meters shall be made by written application in the Utility Business Office. Payment of the required security deposit for installation of a fire hydrant meter must be made in advance of installation. The service charge for relocation of a fire hydrant meter assigned to a customer will be billed to the customer's account. Customers requesting use of a fire hydrant meter agree to be financially responsible for any damage to the locking device or gate valve on the meter which occurs while the meter is assigned to them.

The Water Department shall be responsible for reading fire hydrant meters, billing for consumption obtained through fire hydrant meters, recalibrating meters prior to re-assignment, and notifying the Temple Fire Department of all installations and relocations of fire hydrant meters. Meters which have not been used for a period of one (1) month may be removed by service personnel, to lessen risks of damage or misappropriation and to make the meter available to other customers.

Sec. 38-49. Temple Shares program.

The Temple Shares program is hereby established for the purpose of aiding customers who need assistance to pay utility bills owed to the City of Temple. Customers may contribute to Temple Shares by submitting an application to the Utility Business Office. The minimum contribution which can be billed is one dollar (\$1.00) per month. The Utility Business Office will maintain records of all contributions. Letters acknowledging customers' contributions will be sent annually during January. The Director of Utilities shall have authority to suspend collection of contributions whenever adequate funding is established.

A board consisting of the Utility Business Manager, a member of a benevolent organization appointed by the Mayor, and a city employee appointed by the City Manager, will meet as needed to review requests for assistance. Appointed members of the board serve terms of two years and rotate off board in alternate years.

Funds may be expended only with approval of the board. When disconnection of service for non-payment is imminent, an extension of time for payment may be granted by the Utility Business Manager or deputy of the Manager.

Criteria for assistance will be based on individual need as determined by the board, giving consideration to emergencies presented by events such as unemployment, illness and death. Assistance will be granted one time per year except in cases of extreme circumstances.

Sec. 38-50. Director of utilities-rule-making authority.

(a) The director of utilities shall promulgate such rules and regulations as are necessary to administer this article and shall make such interpretations of the various provisions of this chapter as are necessary to ensure proper administration and enforcement. All rules and regulations promulgated by the director of utilities shall be in writing and shall be adopted by the city council.

(b) The director of utilities shall from time to time make interpretations of the various provisions of this article and in doing so shall seek the advice of the city manager and the city attorney. Any such interpretations shall be in writing, shall be distributed to the affected departments and a copy of such interpretation shall be provided to any citizen who may request a copy thereof.

(c) Any utility customer of the City of Temple who is adversely affected by an interpretation of the provisions of this article made by the director of the public utilities shall have the right to appeal such interpretation or ruling to the city council of the City of Temple. Provided, that such appeal is made within ten (10) days of the time when the appellant received notice of said rule or regulation or should have known of said rule or regulation. Any such appeal shall be in writing and the city council shall set a date for a

hearing of said appeal within thirty (30) days of the appellant's filing of a written request for such hearing with the city manager.

(d) All hearings of the city council shall be public, and the appellant, his representative, the director of utilities and any other person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard. The mayor, or in his absence, the mayor pro-tem, may administer oaths and compel the attendance of witnesses. Upon hearing, the board may reverse, or modify, the interpretation of the director of utilities, but may not actually change or alter the provisions of this article without passing a duly adopted ordinance. Any decision of the city council shall be recorded in the minutes and shall be in writing. Such record, immediately following the board's decision, shall be filed in the office of the director of utilities, who, upon request, shall promptly furnish a copy to the appellant, his representative, and any person who has filed a written entry of appearance.

(e) Every decision of the board shall be final, except when such decision shall affect vested rights of the appellant to the extent that appellant may have a legal right to pursue a remedy in a court of competent jurisdiction. In such a case, the decision of the city council shall only become final if no appeal of that decision is made by filing a suit in a court of competent jurisdiction within thirty (30) days of the date of their ruling.

Secs. 38-51--38-70. Reserved.

ARTICLE III. WATER SERVICE OUTSIDE CITY

Sec. 38-71. City authorized to sell water, outside city limits.

The City of Temple, Texas, may sell water, may participate in the construction and maintenance of water mains, and may permit connections to be made to such water mains outside the city limits; provided that the terms and conditions hereinafter set out are met.

Sec. 38-72. Application for authority to sell water; contents; hearing; final action by city council.

Authority to sell water and permission to construct water mains and/or make connections to such mains outside the city limits may be granted by resolution of the city council upon application and hearing. The application may be made by any interested party or parties and shall be made in writing addressed to and filed with the secretary of the city council.

The application shall consist of an original and two (2) copies and shall set out the names of the parties requesting permission to purchase water, install water mains, or make a tap; the use to which the water is to be put; the size and type of pipe proposed to be used; the estimated cost of construction; the estimated daily average amount of water which such use would consume; a plat, map or sketch showing the location of the proposed use, the

location of adjoining properties and names of owners, adjacent streets, the location of the line or main proposed to be tapped, the proposed location of the line to be installed, any other information that would be helpful or of assistance; and a short statement of the reasons why the city council should grant such application, whichever is applicable.

Upon receipt thereof, the secretary shall transmit the copies to the secretary of the planning commission agenda, provided that the application shall have been received at least ten (10) days prior to such next regular meeting in the name of such applicants. At the planning commission meeting the applicants and all interested parties may appear and be heard. The planning commission shall vote either to accept, conditionally accept, or deny such application.

For final action, the applicant shall appeal the decision of the planning commission to the city council. It shall require a four-fifths (4/5) vote of the city council to overrule or modify the decision of the planning commission.

Sec. 38-73. Prerequisites for securing permission to sell water.

Before permission to sell water, install a main or make a tap is granted, the following terms and conditions shall be met:

- (1) The pipe and installation thereof shall meet city specifications.
- (2) The superintendent of the water department shall calculate the average daily amount of water that the use proposed by the applicants would consume and certify that the City of Temple has the capability of supplying such an amount in addition to that used by the residents and businesses of the city.
- (3) The city engineer shall calculate the main size which is necessary to furnish the amount of water to be used by such applicants, the water main deemed desirable to meet the future needs of the area surrounding the location of the proposed use, and the acreage that should be served in the future by a main located in the proposed location. If a main size larger than that needed to serve the applicants is deemed necessary to meet the future needs of the area, the additional expense of materials and installation caused thereby shall be borne by the city as follows: By an agreement refunding thirty (30) percent of the revenue derived from such main for a period of twelve (12) years from the date of completion of the line, the total initial cost to be borne by the applicant.
- (4) Should others thereafter desire to tap the main, the owner, other than the City of Temple, may charge for the tap a pro rata amount of the cost of the main based on the following formula:

$$\frac{\text{proposed acreage to be served}}{\text{acreage to be served by tap}} = \frac{\text{original cost of main} - (\text{depreciation and amount rebated})}{\text{charge for tap}}$$

- (5) The owner will not allow taps onto such a main without prior approval from the City of Temple. the city shall make such taps at the expense set out in the appropriate ordinance, and the person desiring the tap shall pay to the City of Temple the charge, if any, for the tap in addition to the payment set out in (4). If a tap is allowed or permitted on the main without prior approval of the city, the city may cease selling water to applicant.
- (6) The City of Temple reserves the right to make periodic inspections of the main or mains and, if such mains do not meet city specifications in any particular, the City of Temple may cease transporting and/or selling water through such line.
- (7) A meter shall be placed at the point where such main branches off from the city water system, or at the intersection of such main and the then existing city limits, or as near thereto as may be practicable, whichever location is, in the judgment of the city, best suited. Such meter will be read periodically and the owner will be billed for the amount of water which has passed through the meter at a rate not more than or in excess of double the amount paid by users within the city.
- (8) If the city limits are extended to take in a part or all of such mains, the City of Temple may by resolution assume the title and maintenance of that part of the line taken over. The price to be paid shall be the original pro rata cost of that portion of the main to which title is assumed less the pro rata amount of depreciation, rebate under subsection (3) above, and charge to subsequent users. In such event the meter, if located at the city limits line shall be moved at the expense of the city and the pro rata portion of the rebate, if any, as to the acquired mains would cease to be paid. As to properties which are subsequently brought into the city limits, the rate charged shall become that charged to users within the city. Nothing herein shall obligate the city to assume or pay any debts outstanding and owing from the applicant to any person because of such main; but such obligation shall be and remain that of the applicant or owner.
- (9) If applicants cannot or will not install the main size determined to be desirable, then such applicants must request that they be brought into the city limits. In such cases, the installation of mains shall be controlled by the applicable state statutes and city ordinances.

Sec. 38-74. Contract; required; contents.

A contract setting out the agreement of the parties shall be executed and shall contain the agreement of the parties concerning the following items:

- (1) Purpose of contract.
- (2) Quantity of water to be supplied. In no case shall the obligation of the City of Temple to supply water be absolute, but the obligation shall be conditioned on the availability of water.

- (3) Term of agreement.
- (4) The rates to be charged shall be not more than twice the rate charged users within the city limits. The rate will increase or decrease in proportion to the increase or decrease of the charge to users within the city.
- (5) Point of delivery of water.
- (6) Quality of water.
- (7) Air-gap reservoirs.
- (8) Inspections.
- (9) Title to the water and to the mains and appurtenances.
- (10) Indemnity. The purchaser shall agree to indemnify and hold harmless the city from any liability whatsoever.
- (11) Resale of water is to be prohibited.
- (12) Forfeiture.
- (13) Provisions relating to emergencies.
- (14) Any other matter which the parties deem desirable or necessary to include in the contract.

Sec. 38-75. Discontinuance of water service--In cases of emergency.

In cases of emergency only, the city shall have the right to discontinue water service to users outside of the limits of the city without notice.

Sec. 38-76. Same--When city water supply becomes inadequate.

Upon thirty (30) days notice, the city shall have the right to discontinue service to users outside of the limits of the city in the event the water supply of the city becomes inadequate. In such events, service to users outside of the limits of the city shall be resumed when the supply becomes adequate for the needs of the residents of the city and users outside of the limits of the city.

Sec. 38-77. State department of health approval of plans and specifications required.

The plans and specifications of the line proposed to be installed must be approved by the department of health of the State of Texas prior to their becoming binding.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPLE, TEXAS, THAT:

Part 1: Article V, entitled, "Industrial Wastes Standards," of Chapter 38, entitled, "Water, Sewers and Sewage Disposal," of the Code of Ordinances of the City of Temple, Texas, all its underlying ordinances and their amending ordinances be, and hereby are repealed.

Part 2: A new Article V, entitled, "Industrial Wastes Standards," of Chapter 38, entitled, "Water, Sewers and Sewage Disposal," of the Code of Ordinances of the City of Temple, Texas, is hereby adopted to read as follows:

ARTICLE V. INDUSTRIAL WASTES STANDARDS

Section 38-90. Purpose and Policy.

The purpose of this Article is to enable the City of Temple Sewerage System and the Temple-Belton Regional Sewerage System to comply with all applicable State and Federal laws, including the Clean Water Act (33 U.S.C. 1251, *et. seq.*) and the General Pretreatment Regulations.

Section 38-91. Objectives.

The objectives of the City of Temple in adopting and enforcing the Industrial Wastes Standards set forth in this Article are to

- (a) prevent interference with the operation of POTWs;
- (b) prevent introduction of pollutants which will pass through or be incompatible with the treatment works;
- (c) ensure quality of sludge to allow its use and disposal in compliance with statutes and regulations;
- (d) protect the general public and POTW personnel;
- (e) improve opportunities to recycle and reclaim wastewater and sludge;
- (f) provide for equitable distribution of the cost of operation, maintenance and improvement of POTWs; and
- (g) enable POTWs to comply with NPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws.

Section 38-92. Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

(1) **Act or the Act** shall mean the Federal Water Pollution Prevention and Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251. Reference to section numbers contained herein shall be to the section numbers as used in the Clean Water Act, unless otherwise indicated.

(2) **Administrative fine** shall mean a punitive monetary charge unrelated to actual treatment costs which is assessed by the Control Authority rather than a court.

(3) **Approval Authority** shall mean the Director of the Texas Natural Resource Conservation Commission or an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an approved State Pretreatment Program.

(4) **Authorized Representative** shall mean either an individual or position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager or a position of equivalent responsibility for environmental matters for the Company. This is provided that written authorization is submitted to the City.

(5) **BOD** (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under a standard laboratory procedure in five (5) days at twenty degrees centigrade, expressed in parts per million.

(6) **Building drain** shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three (3) feet outside the inner face of the building wall.

(7) **Building sewer** shall mean the extension from the building drain to the public sewer or other place of disposal.

(8) **Bypass** shall mean the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

(9) **Categorical Industrial User** shall mean an industrial user subject to Categorical Standards as established by the U.S. Environmental Protection Agency.

(10) **Categorical Standard** shall mean a regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act which applies to a specific category of Industrial Users.

(11) **Cease and Desist Order** shall mean an administrative order directing an industrial user to immediately halt illegal or unauthorized discharges.

(12) **Compliance Order** shall mean an administrative order directing a noncompliant industry to achieve or restore compliance by a date specified in the order.

(13) **Composite Sample** shall mean a sampling method consisting of either discrete or continuous samples collected in equal amounts and over equal time intervals. For discrete sampling, at least 12 aliquots shall be composited. Where a 24 hour composite sample is not feasible, four (4) grab samples may be collected in equal amounts and equal time intervals. All samples must be representatives of normal daily operations.

(14) **Control Authority** shall mean the City Manager or his duly authorized representative, or in cases involving the Temple-Belton Regional Sewerage System, the General Manager of the Brazos River Authority or his duly authorized representative.

(15) Consent Order shall mean an administrative order embodying a legally enforceable agreement between the Control Authority and the noncompliant industrial user designed to restore the user to compliance status.

(16) City shall mean the City of Temple, Texas.

(17) City Manager shall mean the City Manager of the City of Temple, Texas, or his authorized representative.

(18) Direct Discharge shall mean the discharge of untreated wastewater directly to the waters of the State of Texas.

(19) Environmental Protection Agency or (EPA) shall mean the United States Environmental Protection Agency, or where appropriate, the term may also be as a designation for the Administrator or other duly authorized official of said agency.

(20) Garbage shall mean solid wastes from the preparation, cooking, and dispensing food, and from the handling, storage, and sale of produce.

(21) Grab Sample shall mean an individual sample which is taken from a wastestream that is collected over a period of time not exceeding 15 minutes.

(22) Indirect Discharge shall mean the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Clean Water Act, as amended.

(23) Industrial User shall mean any person discharging or introducing nondomestic pollutants from any source regulated under Section 307(b) or (c) of the Act into the sewage works.

(24) Industrial Wastes shall mean the liquid wastes from industrial processes as distinct from sanitary sewage.

(25) Interference shall mean the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the NPDES Permit. This includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

(26) National Pollution Discharge Elimination System or NPDES Permit shall mean a permit issued pursuant to Section 402 of the Act.

(27) National Pretreatment Standard, Pretreatment Standard, or Standard, (i.e., prohibitive discharge standards, categorical pretreatment standards, and local limits) shall mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to §403.5.

(28) Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

(29) New source shall mean any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section.

(30) **Pass through** shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of the violation).

(31) **Person** shall mean any individual, firm, company, association, society, corporation or group.

(32) **pH** shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution expressed in Standard Units.

(33) **Pollutant** shall mean the alteration of the chemical, physical, biological and radiological integrity of water.

(34) **Properly shredded garbage** shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

(35) **Pretreatment** shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

(36) **Pretreatment requirements** shall mean any substantive or procedural requirement related to the Temple or T-BRSS Pretreatment Program other than a Categorical Standard imposed on an Industrial User.

(37) **Process wastewater** shall mean any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

(38) **Public Owned Treatment Works (POTW)** shall mean a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.

(39) **Sanitary sewer** shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

(40) **Sewage** shall mean a combination of the water-carried wastes from residences, business buildings, institutions, industrial establishments, together with such ground, surface, and storm waters as may be present.

(41) **Sewage treatment plant** shall mean an arrangement of devices and structures used for treating sewage.

(42) **Sewage works** shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(43) **Sewer** shall mean a pipe or conduit for carrying sewage.

(44) **Shall** is mandatory; **may** is permissive.

(45) **SIC** shall mean the classification system based on the type of manufacturing or commercial activity at a facility. For businesses with several different activities it is possible to

have different SIC numbers for each one. A manual of SIC numbers is prepared by the Executive Office of the President, Office of Management and Budget.

(46) Significant Industrial User

(a) Except as provided in paragraph (b) of this definition, the term Significant Industrial User shall mean:

(1) All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow-down wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating and pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

(b) Upon a finding that an industrial user meeting the criteria in paragraph (a)(ii) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Control Authority (as defined in 40 CFR 403.12(a)) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

(47) **Slug loading** shall mean any pollutant (including biochemical oxygen demand [BOD]) released in a discharge at a flow rate or concentration which will cause interference with the operation of the treatment works.

(48) **Storm sewer or storm drain** shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

(49) **Storm water** shall mean storm and surface waters (including ground waters), specifically excluding sanitary sewage and polluted industrial wastes.

(50) **Suspended solids** shall mean solids that either float on the surface or are in suspension in water, sewage, or other liquids; and which are removable by laboratory filtering.

(51) **System** shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(52) **T-BRSS Pretreatment Program** shall mean the approved Temple-Belton Regional Sewerage System Pretreatment Program as amended.

(53) **Temple Pretreatment Program** shall mean the approved City of Temple Pretreatment Program as amended.

(54) **Texas Natural Resource Conservation Commission (TNRCC)** shall mean the State agency of that title, or where appropriate, the term may also be used as a designation for the Director or other duly authorized official of said agency.

(55) **Upset** shall mean an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment regulations because of factors beyond the reasonable control of the Industrial User. This does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(56) **User** shall mean any person who contributes, causes or permits the contribution of wastewater into City's wastewater system.

(57) **User Permit** shall mean permits issued to Significant Industrial Users and Categorical Industrial Users by the City Manager as set forth in Section 38-97 of this ordinance.

(58) **Watercourse** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(59) **Water/Sewer Superintendent or Superintendent** shall mean the Superintendent of Utilities of the City of Temple, or his authorized representative.

Section 38-93. Duties of Superintendent.

It shall be the duty of the Superintendent to see that certain provisions of this article as pertaining to the use of public sewers are carried out, to determine if the sewage collected by the sewer collection system is treatable, and to supervise the treatment of the sewage.

Section 38-94. Use of Public Sewers Processed by T-BRSS Sewerage System.

(a) No person shall directly or indirectly discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage or unpolluted industrial process water to any sanitary sewer.

(b) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City Manager. Unpolluted process waters may be discharged, with the prior written approval of the City Manager, to a storm sewer, or natural outlet, or into the sanitary sewer system upon written approval of the City Manager or Superintendent. Such discharges may also require approval of State and/or Federal regulatory agencies.

(c) If in the opinion of the Superintendent, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the City Manager shall have the right to require such User to dispose of such waste otherwise, and prevent it from entering the system.

Except as hereinafter provided, no person shall discharge or cause to be discharged into the sewerage system of the City, directly or indirectly, any of the following described matters, water or wastes:

- (1) Wastewater having a temperature that would result in the total combined temperature of the treatment plant influent in excess of 104 degrees Fahrenheit or 32.2 degrees Celsius.
- (2) Any water or waste which may contain more than ninety-six parts per million (96.0 p.p.m.), by weight, of fat, oil or grease or other substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.
- (3) Any liquids, solids or gases which by reason of their nature or quantity are, or may be sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to the sewage works or to the operation of the sewage works. This includes but is not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
- (4) Any gasoline, diesel, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.

- (5) Any petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in quantities that will cause pass through and/or interference.
- (6) Any garbage that has not been properly shredded.
- (7) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, chemical residues, tar, paint, thinners, antifreeze, pesticides, herbicides, plastics, wood, paunch manure, whole blood, or other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works.
- (8) Any waters or wastes with excessive discoloration (including, *but not limited to*, dye wastes, ink, and other coloring solutions).
- (9) Any wastes or waters containing suspended or dissolved solids or oxygen demand of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant or is a public sewage nuisance.
- (10) Any waters or wastes having a pH lower than five point five (5.5) or higher than ten point five (10.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (11) Any trucked or hauled wastes, except at location designated by POTW.
- (12) Any water or wastes containing a toxic or poisonous substance such as plating or heat treating wastes in sufficient quantity to injure or interfere with any sewage treatment process, to constitute a hazard in the receiving waters of the sewage treatment plant.
- (13) No Industrial User shall introduce or cause the introduction into the System of any of the pollutants listed below, in solution or suspension, at a concentration measured at the User's end of pipe, and determined through the Uniform Concentration Method of calculation of Technically-Based Local Limits as contained in Section III-E of the EPA-approved Pretreatment Program Modification for the Temple-Belton Regional Sewerage System.

Pollutant

Aluminum
Arsenic
Cadmium
Chromium
Copper
Cyanide
Lead
Mercury
Molybdenum
Nickel
Selenium
Silver
Zinc
Total Toxic Organics

- (14) Wastewater taken as a grab sample which contains total phenols and/or formaldehyde in concentrations greater than 15.7 parts per million.
- (15) Wastewater which contains more than one (1.0) milligram per liter of hydrogen sulfide measured as H₂S.

- (16) Wastewater with radioactive wastes greater than allowed by applicable provisions of the Texas Radiation Control Act, Subchapter D, Chapters 401 and 402, of the Texas Health and Safety Code, *as amended*, and the State regulations for control of radiation issued thereunder.
- (17) Hazardous wastes prohibited by regulatory agencies shall not be discharged to the system.
- (18) Wastewater which contains more than 15.0 milligrams per liter of fluoride.
- (19) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.

(d) Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this Ordinance. The City Manager shall notify all affected Categorical Industrial Users of the applicable reporting requirements under Title 40 CFR Section 403.12.

Where the sewage treatment works achieves consistent removal of pollutants limited by the Categorical Standards, the City may apply to the Brazos River Authority as owner and operator of the sewage treatment works for modification of specific limits in the Categorical Standards. Any request for modification must meet the requirements of Title 40 CFR 403.7 and receive the approval of the EPA prior to any modification taking place.

(e) Where the operation of a person or corporation entails the discharge of industrial wastes, a written statement on a standard form provided by the City Manager, setting forth the nature of the operation contemplated or presently carried on shall be filed with the City Manager. The statement shall contain the following information:

- (1) Name and address of the applicant;
- (2) Type of industry;
- (3) Quantity of plant waste;
- (4) Typical analysis of the waste;
- (5) Type of pretreatment proposed, if any; and
- (6) Proposed point of discharge.

(f) Dilution is prohibited as a substitute for treatment. No industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the conditions contained in this document, and/or with the Federal Categorical limitation, unless expressly authorized to do so by an applicable Pretreatment Standard or Requirement.

(g) Bypass is prohibited and the City may take enforcement action against the industrial user for a bypass unless the provisions outlined in CFR 403.17 are met and demonstrated.

(h) The City shall require industrial users to control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset, provisions outlined in 40 CFR 403.16 shall prevail.

Section 38-95. Use of Public Sewers Connected to Temple Sewerage System.

(a) No person shall directly or indirectly discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage or unpolluted industrial process water to any sanitary sewer.

(b) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the City Manager. Unpolluted process waters may be discharged, with the prior written approval of the City Manager, to a storm sewer, or natural outlet, or into the sanitary sewer system upon written approval of the City Manager or Superintendent. Such discharges may also require approval of State and/or Federal regulatory agencies.

(c) No person shall directly or indirectly discharge or cause to be discharged any trucked or hauled wastes at the wastewater plant nor at any point in the collection system. The Doshier Farm Wastewater Treatment Plant will not accept any trucked or hauled wastes to be discharged at any point in the treatment process.

(d) If in the opinion of the Superintendent, the character of the sewage from any manufacturer or industrial plant, building or other premises is such that it will (1) injure or interfere with wastewater treatment processes or facilities, (2) constitute a hazard to humans or animals, (3) create a hazard in receiving waters of the wastewater treatment plant effluent, or (4) violate appropriate Federal, State or local regulations, the City Manager shall have the right to require such User to dispose of such waste otherwise, and prevent it from entering the System.

Except as hereinafter provided, no person shall discharge or cause to be discharged into the sewerage system of the City, directly or indirectly, any of the following described matters, water or wastes:

- (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (2) Any uncontaminated stormwater, groundwater, roof runoff or any discharges from subsurface drainage systems, yard drains, fountains or ponds.
- (3) Any liquid or vapor having a temperature greater than one hundred (100) degrees Fahrenheit, or any discharge which causes either:
 - a. The temperature of the treatment plant influent to increase at a rate of ten (10) degrees Fahrenheit or more per hour; or
 - b. The total combined treatment plant influent to rise to a temperature of one hundred four (104) degrees Fahrenheit, or more.
- (4) Concentrations exceeding one hundred seventy-five (175) milligrams per liter of oil and grease, wax, fats, and plastic or other substances which will solidify or become discernibly viscous at any temperature between thirty-two (32) degrees Fahrenheit and one hundred fifty (150) degrees Fahrenheit.
- (5) Any petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in quantities that will cause pass through and/or interference.
- (6) Any garbage that has not been properly shredded or any other solid or viscous substances in quantities capable of causing obstruction to the flow in sewers or interfering with proper operation of the treatment plant, including, but not limited to, such materials as ashes, cinders, sand, mud, straw, wood shavings, sawdust, metal shavings and filings, glass, rags, tar, paint, adhesives, thinners, antifreeze, pesticides, herbicides, fungicides, chemical residues, or other solid or viscous substances capable of causing obstructions of the flow in sewers or other interference with the proper operation of the sewerage works.
- (7) Any feathers, entrails, feet, bones, paunch manure, hair, fleshings or eggshells, whole blood or other liquids in quantities which exert an unusual oxygen or chlorine requirement or which result in a discoloration of the treatment plan influent.

- (8) Any substance which singly or by interaction with other wastes can form a gas, or material which, by itself or in combinations with other substances, cause a fire or other explosion, can be a hazard to life and/or interfere with the treatment process. This includes but is not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.
- (9) Any liquids with pH value lower than 5.5 or higher than 10.5.
- (10) Any trucked or hauled wastes, except at locations designated by POTW.
- (11) Any waters or wastes with excessive discoloration (including, but not limited to, dye wastes, ink, and other coloring solutions.)
- (12) Any fluoride in concentration greater than fifteen (15) milligrams per liter.
- (13) Any of the following toxic pollutants including Total heavy metals, in solution or suspension (unfiltered), at a concentration stated in milligrams per liter (mg/l) greater than those tabulated below:

| <u>Metal</u> | <u>Not to Exceed (mg/l)</u> | |
|----------------|-----------------------------|--------------------------|
| | <u>Daily</u> | <u>24 Hour Composite</u> |
| Arsenic | 0.03 | |
| Cadmium | | 0.36 |
| Chromium | | 9.14 |
| Chromium (Hex) | | 1.05 |
| Copper | 0.50 | |
| Cyanide | | 0.60 (Grab) |
| Lead | | 7.30 |
| Mercury | | 0.08 |
| N-Ammonia | | 175 |
| Nickel | | 1.00 |
| Silver | | 0.12 |
| Zinc | | 7.03 |

- (14) Chlorides in concentrations exceeding two hundred fifty (250) parts per million, unless the discharge of chlorides in concentrations higher than two hundred fifty (250) parts per million is limited to rates and volumes that will not cause the concentration of chlorides in the treated effluent from the sewage treatment plant to exceed two hundred fifty (250) parts per million.
- (15) Any water or wastes containing a toxic or poisonous substance such as plating or heat treating wastes in sufficient quantity to injure or interfere with any sewage treatment process, to constitute a hazard to the receiving waters of the sewage treatment plant.
- (16) Any active or inert materials in concentrations which interfere with the proper operation of the treatment process to the degree that the normal treatment process used will not produce an effluent meeting the criteria of regulatory agencies or which impose unusual costs for treatment or maintenance.
- (17) Unusual rates of flow or concentrations of any waste constitutes which exceed for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour flow or concentration during normal operation.
- (18) No substances or mixtures which may contain any amount of polychlorinated biphenyls (PCB).

- (19) Wastewater taken as a grab sample with contains total phenols and/or formaldehyde in concentrations greater than seven (7) parts per million.
- (20) Wastewater which contains more than one (1.0) milligram per liter of hydrogen sulfide measured as H₂S.
- (21) Wastewater with twenty-four hour composite samples containing biochemical oxygen demand (BOD) and/or total suspended solids (TSS) in excess of eight hundred (800) milligrams per liter.
- (22) Wastewater containing chemical oxygen demand (COD) in excess of fifty-three hundred (5300) milligrams per liter.
- (23) Wastewater with radioactive wastes greater than allowed by applicable provisions of the Texas Radiation Control Act, Subchapter D, Chapters 401 and 402, of the Texas Health and Safety Code, as amended, and the State regulations for control of radiation issued thereunder.
- (24) Hazardous wastes prohibited by regulatory agencies shall not be discharged to the system.
- (25) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause Interference with the POTW.

(e) Upon the promulgation of the Federal Categorical Pretreatment Standards for a particular industrial subcategory, the Federal Standard, is more stringent than limitations imposed under this Ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this Ordinance. The City Manager shall notify all affected Categorical Industrial Users of the applicable reporting requirements under Title 40 CFR Section 403.12.

(f) Where the operation of a person or corporation entails the discharge of industrial wastes, a written statement on a standard form provided by the City, setting forth the nature of the operation contemplated or presently carried on shall be filed with the City. The statement shall contain the following information:

- (1) Name and address of the applicant;
- (2) Type of industry;
- (3) Quantity of plant waste;
- (4) Typical analysis of the waste;
- (5) Type of pretreatment proposed, if any; and
- (6) Proposed point of discharge.

(g) Dilution is prohibited as a substitute for treatment. No industrial user shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the conditions contained in this document, and/or with any Federal Categorical limitation, unless expressly authorized to do so by an applicable Pretreatment Standard or Requirement.

(h) Bypass is prohibited and the City may take enforcement action against the industrial user for a bypass unless the provisions outlines in 40 CFR 403.17 are met and demonstrated.

(i) The City shall require industrial users to control production and/or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and local limits upon reduction, loss, or failure of its treatment facility. In the event of a plant/system upset provisions outlined in 40 CFR 403.16 shall prevail.

Section 38-96. Charges and Fees.

The City may adopt charges and fees which may include:

- (1) Fees for reimbursement of costs of setting up, administering and operating the City's responsibilities under the T-BRSS Pretreatment Program;
- (2) Fees for monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications;
- (5) Fees for filing appeals; or
- (6) Other fees as the City may deem necessary to carry out the requirements contained herein.

Section 38-97. User Permits.

(a) *Extraterritorial Users.* No discharge originating in areas outside the territorial limits of the City of Temple shall be made into any sanitary sewer of the City of Temple without first obtaining a special permit, which shall be subject to and incorporate by reference the terms of this ordinance.

(b) *Significant and Categorical Users.* All Significant Industrial Users and Categorical Industrial Users, as determined from information required by Section 38-94(e) or Section 38-95 (f) or from information provided by the T-BRSS Pretreatment Program and/or the City, shall obtain a User Permit before connecting to or contributing to the sewage works. All existing Users shall obtain a User Permit within 180 days after the effective date of this ordinance.

Users required to obtain a User Permit shall complete and file with the City, an application or, in the case of a Categorical User, a Base Line Monitoring Report in the form prescribed by the City. Existing Users shall apply for a User Permit within 60 days after the effective date of this Ordinance, and proposed new Users shall apply at least 90 days prior to connecting to or contributing to the sewage works. In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, mailing address, and street location (if different from the address);
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in Section 38-94(c) of this Ordinance and/or those specified by any applicable Federal Categorical Standards, as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the Environmental Protection Agency pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
- (4) Time, duration and volume of discharge;
- (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

- (7) Description of activities, facilities and plant processes on the premises including all materials and chemicals which are or could be discharged;
- (8) The nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable Pretreatment Standards;
- (9) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard;

The following conditions shall apply to this schedule:

- (a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - (b) No increment referred to in paragraph (a) shall exceed 9 months.
 - (c) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the City including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than 9 months elapse between such reports to the City.
- (10) Average amount of water in gallons used each day; average amount of water in gallons used monthly;
 - (11) Each product produced by type, amount processes and rate of production (where applicable);
 - (12) Type and amount of raw materials processes and chemicals used;
 - (13) Number and type of employees, hours of operation of plant, number of shifts per day, number of days worked each week, and proposed or actual hours of operation of the facility pretreatment system;
 - (14) Name of owner, operator, and facility contact person;
 - (15) Name of the POTW that will receive the wastewater discharge from the facility;
 - (16) A listing and description of any environmental permits held by the facility;
 - (17) Any other information as may be deemed by the City to be necessary to evaluate the contract application;
 - (18) The application or Base Line Monitoring Report will be signed and certified as correct by an authorized representative of the facility.

Within 9 months of the promulgation of a National Categorical Pretreatment Standard, the User Permits of Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a Categorical Standard, has not previously submitted an application for a User Permit, the User shall apply for a User Permit within 180 days after the promulgation of the applicable Categorical Standard. Any User with an existing User Permit and subject to a Categorical Standard shall submit to the City Manager within 180 days after the promulgation of an applicable Categorical Standard the information required by paragraphs 8 and 9 of this Section.

The City shall evaluate each industry that is permitted at the end of each quarter for purposes of determining compliance status. Any permitted industrial user that meets the criteria established by 40 CFR 403.8(f)(2)(vii) is deemed to be in significant noncompliance and will be published, on an annual basis, in the largest newspaper distributed within the City.

Section 38-98. Permit Conditions.

User Permits shall be expressly subject to all provisions of this ordinance and all other applicable regulations, standards, User charges, and fees established by the City. Permits may contain the following:

- (1) Requirements for submission of technical reports or discharge reports including self-monitoring, sampling, reporting, notification and record keeping requirements;
- (2) Statement of duration;
- (3) Statement of non-transferability;
- (4) Effluent limits, based on applicable general pretreatment standards, categorical pretreatment standards, local limits, and State and local law;
- (5) Self-monitoring, including list of pollutants to be monitored, sampling location, sampling frequency, and sample type;
- (6) Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater system;
- (7) Right of entry as authorized by Section 38-103 of this ordinance;
- (8) Requirements that the permit may be reopened or amended to comply with revised discharge as necessary to meet all Federal and State regulations and/or conditions; to provide protection to the POTW;
- (9) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
- (10) Requirement for notification of slug discharges;
- (11) Requirement for retention of records for a minimum of three (3) years, this includes any records of monitoring activities and results;
- (12) Requirements for periodic reports of compliance, status, or other information be provided to the City; and
- (13) Other conditions as deemed appropriate by the City to ensure compliance with this ordinance.

User Permits shall be issued for a specified time period, not to exceed five years. The User shall be required to apply for permit reissuance a minimum of 60 days prior to the expiration of the User's existing permit.

Section 38-99. Compliance Date Report.

Within 90 days following the date for final compliance with applicable Pretreatment Standards, or in the case of a New Source, following commencement of the introduction of wastewater into the Sewage System, any User subject to Pretreatment Standards and Requirements shall submit to the City a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards or Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and certified to by a qualified professional.

Section 38-100. Fraud and False Statements.

The reports and other documents required to be submitted or maintained under this Article shall be subject to:

- (a) The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;
- (b) The provisions of sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and
- (c) The provisions of section 309(c)(6) regarding responsible corporate officers.

Section 38-101. Periodic Compliance Reports.

(a) Any User subject to a Pretreatment Standard and permitted by the City, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the Sewage System, shall submit to the City on at least a semi-annual basis, unless required more frequently in the Pretreatment Standard or by the City, a report indicating the nature and concentration, of pollutants in the effluent which are limited by such Pretreatment Standards. At the discretion of the City and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the City may agree to alter the months during which the above reports are to be submitted.

(b) The City may impose mass limitations on Users as appropriate. In such cases, the report required by subsection (1) of this section shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the City, of pollutants contained therein which are limited by the applicable Pretreatment Standards. The frequency of monitoring shall be prescribed in the applicable Pretreatment Standards. All analysis shall be performed in accordance with procedures contained in 40 CFR, Part 136 and amendments thereto. Where 40 CFR, Part 136 does not include sampling or analytical techniques for the pollutant in question, the latest edition of Standard Methods for Examination of Water and Wastewater shall be used, and/or generally accepted sampling and analytical methods that are approved by the City.

(c) Significant Non-categorical Industrial Users that are not subject to categorical Pretreatment Standards and are permitted by the City shall submit to the City on at least a semi-annual basis, unless required more frequently by the City, a description of the nature, concentration, and flow of pollutants specified. These reports shall be based on samples collected in the time period stipulated by the City. All sampling and analysis shall be performed in

accordance with the techniques described in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, the latest edition of Standard Methods for the examination of Water and Wastewater shall be used, and/or generally accepted sampling and analytical methods that are approved by the City. At the discretion of the City and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the City may vary the months during which the above reports are to be submitted.

(d) All reports submitted to the City to satisfy Local, State and Federal requirements under Section 38-101 shall include the certification statement as set forth in 40 CFR part 403.6 (a)(2)(ii), and shall be signed:

- (1) By reasonable corporate officer, if industry is a corporation. This shall mean (i) a president, secretary, treasurer, or vice-president of the corporation, or any other person who performs similar policy or decision making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons, if authority to sign has been delegated to the manager in accordance with corporate procedures.
- (2) By a general partner or proprietor if the industry is a partnership or sole proprietorship.
- (3) By a duly authorized representative of the individual in parts 1 and 2 above if (i) the authorization is made in writing, (ii) the authorization specifies either an individual or a position having responsibility for the overall operation of the facility, and (iii) the authorization is submitted to the City.

(e) If authorization of Signatory Authority is no longer accurate because of a different individual or position change, a new authorization must be submitted to the Control Authority prior to or together with any reports required to be signed by an authorized representative.

(f) If a sampling performed by an Industrial User indicates a violation, the User shall notify the City within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation. Resampling is not required if the City has performed sampling of the industry between the time the industry initially sampled to when the results were received for that sample.

Section 38-102. Monitoring Facilities.

- (a) The City may require to be provided and operated at the User's expense monitoring facilities to allow inspection, sampling, and flow measurements of the building sewer and/or internal drainage systems. When required by the City Manager, the owner of any property served by a building sewer carrying industrial wastes shall install at his expense a manhole in the building sewer.
- (b) The monitoring facility should normally be situated on the User's premises, but the City may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- (c) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User.
- (d) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all

applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

Section 38-103. Inspection and Sampling.

(a) The City shall inspect the facilities of any User to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. The City, Brazos River Authority, Texas Natural Resource Conservation Commission, and the Environmental Protection Agency shall have the right to set upon the User's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, Brazos River Authority, Texas Natural Resource Conservation Commission, and the Environmental Protection Agency will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(b) The City shall conduct inspections and sampling at the minimum frequency by 40 CFR 403. More frequent inspections may be conducted if deemed necessary and/or appropriate to insure compliance with these provisions. The City is required by 40 CFR 403.12 to conduct at least annual monitoring.

(c) Should any user deny the City, Brazos River Authority, Texas Natural Resource Conservation Commission or the United States Environmental Protection Agency access to its facilities for the purposes specified in this Section, those entities shall have recourse to every remedy provided by law to secure entry.

Section 38-104. Accidental Discharges and Notice of Potential Problems.

(a) Each User required to obtain a User Permit under Section 38-97 or as determined by City, shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance and other approved standards. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or User's own cost and expense. Detailed plans prepared under the supervision of a professional engineer licensed by the State of Texas showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All existing Users shall complete such a plan in 90 days from date of contract. No User who commences contribution to the Wastewater System after the effective date of this Ordinance shall be permitted to introduce pollutants into the System until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the User's facility as necessary to meet the requirements of this Ordinance. In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify Brazos River Authority, if appropriate, and the City of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. A written report is to be submitted within five (5) calendar days following the incident and containing the above information.

(b) In accordance with 40 CFR 403.8 (f)(2)(v) the City shall, every two years evaluate each permitted industrial user and determine if a plan should be developed and/or modified to control slug discharges. For purposes of this section a slug discharge includes but is not limited to an accidental spill or non-customary batch discharge.

(c) All categorical and non-categorical Industrial Users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by §403.5(b), by the Industrial User.

Section 38-105. Discharge of Hazardous Waste.

(a) The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).

(b) Dischargers are exempt from the requirements of paragraph (a) of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

Section 38-106. Confidential Information.

(a) Information and data on a User obtained from reports, questionnaires, contract applications, contracts and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User.

(b) When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Section 38-107. Interceptors - Required; Type; Location; Specifications.

(a) Grease, oil, and sand interceptors shall be provided for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, and other harmful ingredients; except that such interceptors may not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City and shall be located as to be readily and easily accessible for cleaning and inspection.

(b) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place, shall be gas-tight and watertight.

(c) Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense in continuously efficient operation at all times.

Section 38-108. Review and approval; Preliminary Treatment; Required Facilities.

(a) The admission into the public sewers of any waters or wastes having (1) a five-day biochemical oxygen demand greater than three hundred (300) parts per million (p.p.m.) by weight, or (2) containing more than four hundred (400) parts per million by weight of total suspended solids, or (c) containing any quantity of substances having the characteristics described in Section 38-94, or (d) having an average daily flow greater than five per cent (5%) of the average daily sewage flow of the City, shall be subject to the review and approval of the Superintendent. Where the Superintendent has approved the admission of (a) or (b) above into the public sewer, that discharge may be subject to a surcharge as determined by the Superintendent.

(b) **Surcharges.** After a review by the Superintendent, if a determination is made that the discharge is of such unusual strength and/or character that increased treatment within the sewer treatment plant would be required accompanied by increased treatment costs to the POTW, the discharge shall be subject to a surcharge. In no case will a discharge be accepted that will prevent the POTW from meeting its permit limits. The surcharge will be automatic beginning the third month for a User who has had two previous consecutive months with discharges of BOD or TSS which exceed the limits provided in 38-104(a) above. A surcharge is an additional charge by the POTW for the increased cost of handling discharge of unusual strength and character, and shall not serve as a variance to the requirements of this ordinance, nor shall it serve to bar the POTW from bringing a criminal action or civil action under Section 38-113 for violations of the provisions of this ordinance.

(c) Surcharges for the treatment of discharges described in this section shall be determined as follows:

(1) A basic sewer charge of two hundred fifty dollars (\$250.00) per million gallons times the monthly volume discharged in millions of gallons.

(2) A biochemical oxygen demand (BOD) surcharge of one dollar (\$1.00) per million gallons times the difference between the BOD expressed in milligrams per liter, and three hundred (300) milligrams per liter; all multiplied times the monthly volume discharged expressed in millions of gallons.

(3) A total suspended solids (TSS) surcharge of one dollar (\$1.00) per million gallons times the difference between the TSS expressed in milligrams per liter, and four hundred (400) milligrams per liter; all multiplied times the monthly volume discharged in millions of gallons.

(d) The basic sewer charge, biochemical oxygen demand, and total suspended solids surcharges will be reviewed at periodic intervals as determined by the Superintendent. Changes in the aforementioned surcharges shall be authorized by resolution of the City Council and shall be binding on all City agreements for the treatment of industrial wastes.

(e) Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

Section 38-109. Maintenance of Pretreatment Facilities.

Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation, by the owner at his expense.

Section 38-110. Control Manhole.

When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the industrial wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

Section 38-111. Measurements, Tests, Analyses.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in Section 38-94 and 38-95 shall be determined in accordance with procedures established by the Environmental Protection Agency in Title 40 CFR Part 136 and amendments thereto or with any test procedures approved by the EPA Administrator. Where the Environmental Protection Agency has not under 40 CFR Part 136 approved analytical techniques for any pollutant then "Standard Methods for the Examination of Water and Sewage" or some other validated method will be followed. The tests shall be performed on the samples taken at the location designated in each industry's Permit.

Section 38-112. Damaging Sewerage Works.

No unauthorized person shall maliciously, negligently, or willfully break, damage, uncover, turn on/off, deface, or tamper with any equipment, structure, or appurtenance which is a part of the municipal sewerage works.

Section 38-113. Notice of Violation.

Any person found to be violating any provisions of this article except 38-108 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit, consistent with the nature of the violation, for satisfactory correction of the violation. The person notified shall, within the period of time stated in the notice, permanently cease all violations. Receipt of a notice of violation does not relieve any person of civil or criminal responsibility for unauthorized discharges during the time specified for correction.

Section 38-114. Upset Provision.

(a) Definition. For the purposes of this section, *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c) are met.

(c) Conditions necessary for a demonstration of upset. An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(3) The Industrial User has submitted the following information to the POTW and Control Authority within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within 5 days);

(i) A description of the Indirect Discharge and cause of noncompliance;

(ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(d) Burden of proof. In any enforcement proceeding the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.

(e) Reviewability of agency consideration of claims of upset. In the usual exercise of prosecutorial discretion, enforcement personnel should review any claims that non-compliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(f) User responsibility in case of upset. The Industrial User shall control production or all Discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

Section 38-115. Bypass.

(a) Definitions.

(1) Bypass means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

(2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not violating applicable Pretreatment Standards or Requirements. An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

(c) Notice.

(i) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least 10 days before the date of the bypass.

(ii) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Prohibition of bypass. Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(iii) The Industrial User submitted notices as required under paragraph (c) of this section.

(e) Approval of anticipated bypass. The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three (3) conditions listed in paragraph (d) of this section.

Section 38-116. Administrative Orders.

The Superintendent of Utilities or other official having responsibility for operations of the City's sewer systems and enforcement of this article, has authority to use the following types of administrative orders for correction of violations.

(a) **Cease and Desist Order.** A cease and desist order directs a User or other person to immediately halt illegal or unauthorized discharges. A cease and desist order may be issued immediately upon discovery of a problem and, in emergencies, may be given by telephone. A subsequent written order shall be served either in person or by registered mail. If necessary, regardless of the User's compliance status, immediate cessation of any discharge to the City's collection system may be ordered. A cease and desist order may also be used to suspend or permanently revoke industrial wastewater discharge permits. If a User fails to comply with the order, the City may take independent action to halt a discharge, such as terminating water service or blocking a User's connection point.

(b) **Consent Order.** A consent order between the City and a User shall contain three elements: compliance schedules; stipulated damages or remedial actions; and signatures of authorized representatives for both parties. The signing of a consent order is neither an admission of liability for purposes of civil litigation nor a plea for purposes of criminal prosecution.

(c) **Show Cause Order.** The City may issue a show cause order to any User who causes or allows an illegal or unauthorized discharge to enter the City's sewer system. A notice shall be serviced on the User to show cause before the City Council as to why the proposed enforcement action should not be taken. The notice shall state the time and place of a hearing to be held by the City Council regarding the violation, the proposed enforcement action, and the reasons for the proposed action. The notice shall be served personally or by certified mail (return requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The City Council may itself conduct the hearing or may dispute any of its members or any officer or employee of the City to perform the following steps:

- (1) Issue in the name of the City Council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (2) Take the evidence;
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations, to the City Council for action thereon.

After the City Council has reviewed the evidence, it may issue an order to the User responsible for the discharge directing that, following a specified time period, the sewer service be disconnected unless adequate treatment facilities, devices or other related appurtenances shall not have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(d) **Compliance Orders.** A compliance order is a unilateral order by the city directing a User to achieve or restore compliance by a specified date. A compliance order shall document the noncompliance and state required actions to be accompanied by specific dates, including interim and final reporting requirements. Failure of a User to meet the requirements under a compliance order may be addressed by a show cause order or other remedies.

(e) **Emergency Suspensions.** Any User or other person notified of an emergency suspension of its wastewater treatment service, User Permit, or both, shall immediately stop or eliminate its discharges into the City's sewer system. In the event a person notified of an emergency suspension fails to immediately comply with an emergency suspension notice, the person is subject to immediate severance of the sewer connection to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

An emergency suspension shall be lifted when the endangerment has passed unless termination proceedings against the User are pending.

(f) **Termination of Permit.** A User who violates the terms of its User Permit, a provision of this Article, an administrative order issued under this Article, or any applicable State or Federal law is subject to permit termination. Examples of grounds for termination include the following: violation of permit conditions; failure to accurately report the wastewater constituents and characteristics of its discharge; failure to report significant changes in operations or wastewater constituents and characteristics; and refusal of reasonable access to the User's premises for the purpose of inspection, monitoring or sampling.

Section 38-117. Criminal Penalties for Violations.

Any person who violates a provision of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not less than two hundred dollars (\$200.00), nor more than two thousand dollars (\$2,000.00) for each violation. Each day in which such violation shall continue shall be deemed a separate offense. The City may seek prosecution of Users and other persons for criminal violations of any federal, state or municipal law.

Section 38-118. Civil Litigation.

(a) Any person violating any of the provisions of this article shall become civilly liable to the City for any expense, loss or damage occasioned by the City by reason of such violation.

(b) The Superintendent of Utilities or other official having responsibility for operations of the City's sewer systems and enforcement of this article, may commence a civil action in the following situations: (a) in emergency situations where injunctive relief is necessary to halt or prevent discharges which threaten human health or the environment, or interfere with the

POTW; (b) when efforts to restore compliance through cooperation with the industrial user have failed and a court-supervised settlement (consent decree) is necessary to enforce program requirements; or (3) to impose civil penalties and recover losses incurred due to noncompliance, negligence, maintenance of a nuisance or infliction of intentional damage.

Section 38-119. Miscellaneous.

(a) *Gender*. As used in this Chapter, whenever the context so indicates, the masculine, feminine, or neuter gender and the singular or plural number, shall be deemed to include the others.

(b) *Headings*. The headings above the various provisions of this Chapter have been included only in order to make it easier to locate the subject covered by each provision and are not to be used in construing the said provisions.

(c) *Amendments of Statutes*. Reference made to any State or Federal statutes or to any local ordinances includes and is intended to refer to those statutes and/or ordinances as they presently exist or as they may hereafter be amended to read.

Sections 38-120 - 38-125. Reserved.

Part 3: If any section or part of any section, paragraph, or clause of this ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or sections, part of section, paragraph, or clause of this ordinance.

Part 4: It is the intention of the City Council that this ordinance shall become a part of the Code of Ordinances of the City of Temple, Texas, and may be renumbered and codified therein accordingly.

Part 5: All ordinances and parts of ordinances inconsistent or in conflict herewith are hereby repealed.

Part 6: This ordinance shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Temple, Texas, and it is accordingly so ordained.

Part 7: It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

PASSED AND APPROVED on First Reading on the 6th day of April, 1995.

PASSED AND APPROVED on Second and Final Reading on the 20th day of April, 1995.



ATTEST:

Clydetta Entzminger
Clydetta Entzminger
City Secretary

THE CITY OF TEMPLE, TEXAS

J.W. Perry
J.W. PERRY, Mayor

APPROVED AS TO FORM:

Jonathan Graham
Jonathan Graham
City Attorney

ARTICLE VI. CROSS CONNECTION CONTROL

Sec. 38-130. General Provisions.

(a) **Title.** These regulations shall hereinafter be known, cited, and referred to as the Cross Connection Control Ordinance of the City of Temple, Texas, and shall be included as part of the Code of Ordinances of the City of Temple, Texas.

(b) **Definition of Terms.** For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. If a word or term used in this ordinance is not contained in the following list, its

1. ***Approved Backflow Prevention Assembly or Backflow Assembly or Assembly*** shall mean an assembly to counteract backpressure or prevent backsiphonage. This assembly must appear on the list of approved assemblies issued by the City of Temple Utilities Department.

a. ***Reduced Pressure Principle Backflow Prevention Assembly or Reduced Pressure Principle Assembly or RP Assembly or RP*** shall mean an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the valves and at the same time below the first check valve. The assembly shall include properly located resiliently seated test cocks and tightly closing resiliently seated shut-off valves at the end of the assembly.

b. ***Reduced Pressure Principle Detector Backflow Prevention Assembly or Reduced Pressure Detector or RPDA*** shall mean an assembly composed of line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for very low rates of flow.

c. ***Double Check Valve Backflow Prevention Assembly or Double Check Assembly or Double Check or DC*** shall mean an assembly which consists of two independently operating check valves which are spring loaded or weighted. The assembly comes complete with a gate valve on each side of the checks, as well as test cocks to test the checks for tightness

d. ***Double Check Detector Backflow Prevention Assembly or Double Check Detector or DCDA*** shall mean an assembly composed of line-size approved double check assembly with bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for very low rates of flow.

e. ***Pressure Vacuum Breaker Backflow Prevention Assembly or Pressure Vacuum Breaker or PVB*** shall mean an assembly which protects against backsiphonage, but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single check valve with an AVB and can be used with downstream shutoff valves. In addition, the assembly has suction and discharge gate valves and test cocks which allows the full testing of the assembly.

f. ***Spill-Resistant Pressure Vacuum Breaker or SVB*** shall mean an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly located test cock and shutoff valves on the suction and discharge ports of the assembly.

g. ***Atmospheric Vacuum Breaker Backflow Prevention Device or Atmospheric Vacuum Breaker or AVB*** shall mean that this device cannot be tested and cannot prevent back pressure backflow, but is used to prevent backsiphonage in nonhealth hazard conditions. h. ***Air Gap*** shall mean a physical separation between the free flowing discharge end of a potable water supply piping and/or appurtenance and an open or nonpressure receiving vessel, plumbing fixture or other device. An "approved air gap separation" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device, in no case less than one inch. Air gaps can be used to protect against backpressure or backsiphonage of a high health or nonhealth hazard.

h. ***Air Gap*** shall mean a physical separation between the free flowing discharge end of a potable water supply piping and/or appurtenance and an open or nonpressure receiving vessel, plumbing fixture or other device. An "approved air gap separation" shall be at least double the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device, in no case less than one inch. Air gaps can be used to protect against backpressure or backsiphonage of a high health or nonhealth hazard.

2. ***Auxiliary Supply*** shall mean any water source or system other than the public water system, that may be available in the building or on the property, including ground water or surface water used for industrial, irrigation or any other purpose.

3. ***AWWA*** shall mean American Water Works Association.

4. ***Backflow*** shall mean the undesirable reversal of flow of water or mixtures of water and other liquid, gaseous, or other substances into the distribution pipes of the potable supply of water from any source or sources.

5. ***Backpressure*** shall mean any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause, or tend to cause, a reversal of the normal direction of flow and the introduction of fluids, mixtures or substances from any source other than the intended source.

6. ***Backsiphonage*** shall mean a form of backflow due to a reduction in system pressure which causes a sub atmospheric pressure to exist at a site in the water system.

7. ***Boresight or Boresight to Daylight*** shall mean providing adequate drainage for backflow prevention assemblies installed vaults through the use of an unobstructed drain pipe.

8. ***City*** shall mean the City of Temple, Texas.

9. ***Commercial Establishment*** shall mean any property or location which is primarily used for the manufacture, production, storage, wholesaling or rebuilding of any goods or wares which is or may be placed in the flow of commerce or any property or location which is used primarily for the provision of any service.

10. ***Commission*** shall mean the Texas Natural Resource Conservation Commission (TNRCC).

11. ***Containment*** shall mean the installation of appropriate type or method of backflow protection at the service connection.

12. ***Contaminants*** shall mean any foreign material, solid or liquid, not common to the potable water supply which makes or may make the water unfit or undesirable for human consumption.

13. ***Contamination*** shall mean the entry into or presence in a public water supply system of any substance which may be deleterious to health and/or the quality of the water.

14. **Cross Connection** means any physical arrangement where a potable water supply is connected, directly or indirectly (actual or potential), with any other non-drinkable water system, used water system, or auxiliary water supply, sewer, drain conduit, swimming pool, storage reservoir, plumbing fixture, swamp coolers, air condition units, fire protection system, or any other assembly which contains, or may contain, contaminated water, sewage, or other liquid of unknown or unsafe quality which may be capable of importing contamination into the public water system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or changeover assemblies, or other temporary or permanent assemblies through which, or because of which, backflow may occur are considered to be cross connections.

15. **Customer** shall mean the person, company or entity contracting with the City of Temple through the Utility Department to receive potable water service.

16. **Customer Potable Water System** shall mean that portion of the privately owned potable water system lying between the point of delivery and the point of use. This system will include all pipe, conduits, tanks, receptacles, fixtures, equipment, and appurtenances used to produce, convey, store or utilize the potable water.

17. **Customer Service Inspection** shall mean a detailed inspection of a location and disposition of the water lines, including without limitation, establishing water lines on the premises, the existence of cross connections, the availability of auxiliary or used water supplies, the use or availability of pollutants, contaminants and other liquid, solid or gaseous substances which may be used for stabilization of water supplies and such other processes necessary to determine degree of hazard. Inspection may include review of records required by this ordinance. The inspection may only be conducted by: (i) plumbing inspectors and water supply protection specialist licensed by the State Board of Plumbing Examiners; (ii) Certified waterworks operators and members of other water related professional groups holding an endorsement by the commission or its designated agent; (iii) licensed plumbers (for single-family residential services only).

18. **Degree of Hazard** shall mean the low or high hazard classification that shall be attached to all actual or potential cross connections.

a. **High Hazard** shall mean the classification assigned to an actual or potential cross connection that potentially can allow a substance to backflow into the potable water supply that may cause illness or death.

b. **Low Hazard** shall mean the classification assigned to an actual or potential cross connection that potentially could allow a substance that may be objectionable but not hazardous to a human's health to backflow into the potable water supply

c. **Health Hazard** shall mean an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

d. **Plumbing Hazard** shall mean an internal or plumbing-type cross connection in a consumer's potable water system that may be either pollution or a contamination hazard.

e. **Pollution Hazard** shall mean an actual or potential threat to the physical properties of the water system or the portability of the public or consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree of intensity of the pollution to which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause minor damage to the system or its appurtenances.

f. **System Hazard** shall mean an actual or potential threat of severe danger to the physical properties of the public or consumer's potable water supply or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.

19. **Director** shall mean the City's Director of Utilities Department who is vested with the authority and responsibility for the implementation of an effective cross connection control program for the City and for the enforcement of the provisions of this ordinance.

20. **Non-Potable Water** shall mean water that does not comply with the commission's rules and regulations governing drinking water.

21. **Non-Residential Uses** shall include all users not specifically included in residential uses defined under Residential Use.

22. **Point-of-Use Isolation** shall mean the appropriate backflow prevention within the consumer's water system at the point at which the actual or potential cross connection exists.

23. **Pollution** shall mean an impairment of the quality of the public water supply to a degree which does not create a hazard to the public health but does adversely and unreasonably affect the aesthetic qualities of such potable water for domestic use.

24. **Potable Water Supply** shall mean any water supply intended or used for human consumption or other domestic use.

25. **Premises** shall mean any piece of property to which water is provided, including all improvements, mobile structures, and structures located on it.

26. **Premises Isolation** shall mean the appropriate backflow prevention at the service connection between the public water system and the water user.

27. **Public Water System or System** shall mean any public or privately owned water system, which supplies water for public domestic use. The system must meet all the health requirements set forth by the TNRCC. The system will include all services, reservoirs, facilities, and any equipment used in the process of producing, treating, storing or conveying water for public consumption.

28. **Recognized Tester** shall mean a person that is a State certified backflow prevention assembly tester.

a. **General Tester** shall mean qualified to test backflow prevention assemblies on any domestic, commercial, industrial or irrigation service except firelines.

b. **Fireline Tester** shall mean qualified to test backflow prevention assemblies on firelines only. The State Fire Marshall's office requires that a person performing maintenance on firelines must be employed by an Approved Fireline Contractor.

29. **Representative of the Water System** shall mean a person designated by the City of Temple to perform cross connection control duties that shall include, but are not limited to, cross connection inspections and water use surveys.

30. **Residential Use** shall include single family dwellings, duplexes, multiplex, housing and apartments where the individual units are each on a separate meter or the units are fulltime dwellings in cases where two or more units are served by one meter.

31. **Service Connection** shall mean the terminal end of a service line from the public potable water system, i.e., where the water purveyor loses jurisdiction and sanitary control over the water at its point of delivery to the consumer's potable water system. If a meter is installed at the end of the service connection, then the service connection shall mean the downstream end of the meter.

32. **Thermal Expansion** shall mean heated water that does not have the space to expand.

33. **TNRCC** shall mean the Texas Natural Resource Conservation Commission.

34. **Used Water** shall mean water supplied by a public water system to a water user's system after it has passed through the service connection.

35. **Utility** shall mean the City of Temple Utilities Department.

36. ***Water Supply Protection Specialist*** shall mean any person who holds a license endorsement issued by the Texas State Board of Plumbing Examiners to engage in the inspection, in connection with health and safety laws and ordinances, of the plumbing work or installation of a public water system distribution facility or of customer owned plumbing connected to that system's water distribution lines.

(c) **Authority of Requirements.** This ordinance is adopted under the authority of the Constitution and laws of the State of Texas, as promulgated by Chapter 212 of the Texas Local Government Code, as heretofore, or hereinafter amended. This ordinance is adopted pursuant to the provisions of the Charter for the City of Temple, Texas.

(d) **Purpose of Ordinance.** The regulations contained herein are adopted to achieve the following purposes and shall be administered to achieve the following objectives:

1. Promote the health, safety and general welfare of the city;
2. Promote and encourage the proper use and control of the City's water distribution system;
3. To protect the City's potable water supply from the possibility of contamination or pollution by isolating within the customer's internal distribution system(s) or the customer's private water system(s) such contaminants or pollutants that could backflow into the public water system;
4. Promote the elimination or control of existing cross connections, actual or potential, between the customer's potable water system(s), and nonpotable water systems, plumbing fixtures, and process piping systems in conjunction with the currently adopted plumbing code;
5. To provide for the maintenance of a continuing program of cross connection control that will systematically and effectively prevent this contamination or pollution of the City's potable water by requiring the certification and operational testing of all testable backflow prevention assemblies located on a premises, and requiring the installation of approved backflow prevention assemblies as required by the currently adopted plumbing code; and
6. To comply with the TNRCC rules and regulations for Public Water Systems.

(e) **Policy.** It is hereby declared the policy of the City to promote the public health safety and welfare by;

1. Implementing the rules for drinking water standards governing drinking water quality and reporting requirements for public water supply systems promulgated by the Texas Natural Resource Conservation Commission, 31 Texas Administrative Code 290.44 and 290.46, Texas Health and Safety Code, Chapter 341, Subchapter C and the Federal Safe Drinking Water Act, 42 US.CA §§300 f et seq;
2. Establish a cross connection control program of uniform regulations governing the installation, testing and certification of backflow prevention assemblies and technicians;
3. Establishing requirements to permit and control the installation, routine maintenance and inspection of backflow prevention assemblies.

(f) **Jurisdiction and Applicability.** These rules and regulation contained herein shall apply to the utility water service area and all cross connections and installations of backflow prevention assemblies within:

1. Any service area of the City of Temple Utility;
2. Areas where water is purchased from the City of Temple Utility for the purpose of resale; and
3. Any plumbing outside the City requiring plumbing inspection pursuant to a interlocal agreement between the City and a political subdivision, a water sales contract or applicable ordinance.

(g) **Rulemaking.**

The Director of Utilities is hereby authorized to promulgate reasonable regulations to achieve the purposes of the ordinance that are not in conflict with this chapter, the currently adopted plumbing code, the City charter, the TNRCC, the laws of the State of Texas, Texas Health and Safety Code, §§341.031 et seq., as amended, and the Federal Safe Drinking Water Act, 42. USCA § 300 f et. seq., as amended.

(h) **Conflicts with Public and Private Provisions.** Except where indicated, these regulations are not intended to:

1. Interfere with, abrogate, or annul any other public ordinance, rule or regulation statute, or other provision of law.
2. Abrogate any easement, deed restriction, covenant or any other private agreement or deed restriction.

(i) **Conformance with Rules and Regulations.** These regulations herein shall be held to be the minimum requirements concerning cross connections and backflow prevention. In addition to the requirements, each water customer of the City shall be in conformance with all applicable County, State and Federal laws.

Sec. 38-131. Backflow and Siphonage Prevention Program.

(a) Cross Connection Prohibited.

1. No installation of potable water supply piping or part thereof shall be made in such a manner that allows used, polluted or contaminated water, mixtures, gases, or other substances to enter any portion of such piping by reason of backsiphonage, backpressure or any other cause.
2. No person shall install any water operated equipment or mechanism or use any water treating chemical or substance. If it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the public potable water supply system, such equipment or mechanism may be permitted only when equipped with an approved backflow prevention assembly.
3. No person shall connect to the public potable water supply/system any mechanism(s) or system(s) designed to return used water to the public potable water supply/system through any measures.
4. No person shall connect any auxiliary water system to the public potable water supply/system except as allowed by the ordinance and by the currently adopted plumbing code, as amended.

(b) Installation Provisions.

1. No water connection from a public drinking water supply system shall be made to any establishment where an actual or potential contamination or system hazard exists without an air gap separation between the drinking water supply and the source of potential contamination. The containment air gap is sometimes impractical and instead reliance must be placed on individual air gaps or mechanical backflow prevention devices. Under these conditions, additional protection shall be required at the meter in the form of a backflow prevention device (in accordance with AWWA Standard C510 and C511, and AWWA Manual M14) on those establishments handling substances deleterious or hazardous to the public health. The City need not require backflow protection at the water service entrance (meter) if an adequate cross connection control program is in effect that includes annual inspection and testing by a certified backflow prevention device tester. It will be the responsibility of the City to ensure that the requirements are met. It is the water customer's responsibility to coordinate and pay for any required annual test(s) and inspection(s).

2. No water connection from any public drinking water supply system shall be made to any condensing, cooling or industrial process or any other system of nonpotable usage over which the public water supply system official does not have sanitary control, unless the said connection is made in accordance with the requirements of paragraph one (1) of this section. Water from such systems cannot be returned to the potable water supply.

3. Overhead bulk water dispensing stations must be provided with an air gap between the filling outlet hose and the receiving tank to protect against backsiphonage and cross contamination.

4. The use of a backflow prevention device at the service connection shall be considered as additional backflow protection and shall not negate the use of backflow protection or internal hazards as outlined and enforced by the current adopted plumbing code.

5. New Installation.

- a. New, replacement, or reconditioned backflow prevention assemblies shall be installed in accordance with the currently adopted plumbing code, as amended.
- b. Prior to installation, the person must obtain a plumbing permit.
- c. Prior to issuance of a certificate of occupancy, a completed test and maintenance report must be submitted to the Utility Department for any connection requiring a testable backflow prevention assembly. Documentation of an approved air gap can be substituted where applicable and is subject to annual inspection.

6. High Health Hazard Installation.

- a. Only approved backflow prevention assemblies installed at the meter can be used at high health hazard applications unless a variance is obtained from Director of Utilities. Variances will be based on conditions such as type of hazards(s), complexity of facility plumbing, potential for future plumbing connections and others as deemed appropriate.
- b. The Director of Utilities may require a secondary assembly if deemed necessary to protect the public water supply from the failure of the primary backflow prevention assembly or to allow maintenance of the primary backflow prevention assembly.

7. Other Installations.

- a. An approved backflow prevention assembly shall be installed to protect the potable water system from contamination or pollution when such system is connected to any automatic fire protection system, standpipe systems or privately owned fire hydrants.
- b. Installation of a reduced pressure backflow prevention assembly shall be required on any meter connected to the potable water system for water appropriation from fire hydrants unless an approved air gap is authorized. Only meters and backflow prevention assemblies approved by the Director of Utilities can be used to obtain water from a fire hydrant.

8. Wholesale Customers. Any Customer purchasing water for the purpose of resale or distribution shall:

- a. Install an air gap separation or a reduced pressure backflow prevention assembly at the service connection; or b. Implement a plumbing inspection and cross connection control program that is approved by the Director of Utilities which is not less restrictive than that of the City and provide annual program records to the Director for review and audit.

9. Government Customers. Any premises owned, operated, or occupied by a state, federal, county, city or foreign government or agency refusing to comply with the provisions of this chapter shall install a reduced pressure backflow prevention assembly at each service connection.

10. Water Hauling Vehicles.

Water hauling vehicles obtaining water from a connection to the City's potable water supply system shall have an approved air gap separation or a reduced pressure backflow prevention assembly installed permanently on the vehicle, or if connected by a fire hydrant meter, installed on the fire hydrant meter. The assembly shall be registered with the City and certified for operation annually.

11. Compliance for Existing Customers.

- a. The premise owner, customer or the designated representative of any facility which is determined to have an unprotected or improperly installed high health hazard connection (s) must comply with this section within 60 days upon written notification by the Director unless the Director determines that circumstances exist which require installation within a shorter time frame. Documentation of the installation and testing shall be submitted as outlined in Section 220.

b. The premise owner, customer, or designated representative of any facility which is determined to have an unprotected nonhealth hazard connections must install an approved assembly immediately downstream of the City's meter on a schedule determined by the Director. Documentation of the installation and testing shall be submitted as outlined in Section 220.

c. The premise owner, customer or designated representative shall have all testable backflow prevention assemblies which are currently installed certified for operation by a certified backflow prevention assembly tester on an annual basis. If the assembly has not been certified for operation within the last year, the assembly must be tested and, if required, repaired and the documentation submitted to the director within 60 days upon written notification by the Director or on a schedule approved by the Director.

(c) Inspection and Testing Requirements.

1. All backflow prevention assemblies shall be inspected and tested in each of the following circumstances:

- a. Immediately after installations;
- b. Whenever the assembly is moved;
- c. A minimum of once a year;
- d. Premises that have been vacated and unoccupied for one year, prior to re-occupancy; and
- e. Immediately after repairs.

2. All assembly testing shall be performed by a state certified backflow prevention assembly tester, approved by the regulatory authority and registered with the City of Temple.

3. Duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this ordinance. Persons and occupants of premises which are provided water service by the city, either directly or indirectly, shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, testing, records examination or in the performance of any of their duties. Where persons or occupants of premises have security measures in force which would require proper identification and clearance before entry into their premises, the persons and occupants of the premises shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city will be permitted

to enter, without delay, for the purposes of performing their specific responsibilities.

4. The City is not liable for damage to a backflow prevention assembly, which may occur during testing, fluctuation in the distribution system pressure or interruption to the water supply.

5. A water use survey may be conducted at any establishment located in the city which is served by a public water supply or which provides water to the public. Upon determination that the establishment falls under the provisions of this ordinance and requires a backflow prevention assembly, a notice to abate the condition or to install the proper backflow prevention assembly shall be issued.

6. Gauges used in the testing of backflow prevention assemblies shall be tested for accuracy annually and calibrated in accordance with the Manual of Cross Connection Control published by the Foundation of Cross Connection Center, Hydraulic Research, University of Southern California and/or the AWWA Manual of Cross Connection Control (Manual M-14). Testers shall include test gauge serial numbers on "Test and Maintenance" report forms.

7. Test and Maintenance Report.

A Backflow Prevention Assembly Test and Maintenance Report must be completed by the recognized backflow prevention assembly test for each assembly tested. The signed and dated original must be submitted to the City Utility Department within 10 working days for record keeping purposes. Should the tester choose to use a report format which differs from that found in this Section, it must minimally contain all information required by the report form. Test and maintenance reports shall be retained for a minimum of three years. The public water supplier must provide these records to commission staff for inspection upon request.

(d) Customer Responsibility.

1. It is the responsibility of the person who owns or controls property to have all assemblies tested in accordance with this ordinance. Assemblies may be required to be tested more frequently if the regulatory authority deems necessary.

2. The customer shall be responsible for all costs associated with the installation, general maintenance, testing, upkeep, record keeping, and replacement of the approved backflow prevention assembly.

3. Where an owner of property leases or rents the same to any person as tenant or lessee, the owner or tenant or both may be held financially responsible for any of the requirements of this ordinance.

4. The customer shall be responsible for ensuring that the backflow prevention assembly tester is registered with the utility and the gauges used by the tester have been calibrated within one year of the testing date. Failure to comply with the requirements of this section will be grounds to reject the testing of the backflow prevention assembly and require retesting at the customer's expense.

(e) Thermal Expansion.

It is the responsibility of any person who owns or controls property to eliminate the possibility of thermal expansion, if a closed system has been created by the installation of a backflow assembly.

(f) Pressure Loss.

Any reduction in water pressure caused by the installation of a backflow assembly is not the responsibility of the City.

Sec. 38-132. Customer Service Inspection Program.

(a) Inspection Requirements.

A customer service inspection certification shall be completed prior to providing continuous water service to new construction, on any existing service when the water purveyor has reason to believe that cross connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private plumbing facilities.

(b) Inspector Qualifications.

Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification:

1. Plumbing Inspectors and Water Supply Protection Specialists licensed by the Texas State Board of Plumbing Examiners.
2. Certified Waterworks Operators and members of other water related professional groups who have completed a training course, passed an examination administered by the Commission or its designated agent, and hold an endorsement granted by the commission or its designated agent.
3. Licensed Plumbers may perform customer service inspections on single family residential services.
4. Registered Professional Engineers.
5. Registered Sanitarian.

(c) Inspection Certification Report.

Copies of properly completed Water Service Inspection Certifications will be kept on file by the City and made available, upon request, for commission review. The certifications

shall be retained for a minimum of ten years. If the certification form included in this Section is not used, the Inspection certifications must minimally include the name and registration number of the inspector, the type of registration (Plumbing Inspectors, Water Supply Protection Specialists, Certified Operator, etc.) and be dated and signed. It must also certify that:

1. No direct connection between the public drinking water supply and a potential source of contamination exists. Potential sources of contaminations are isolated from the public water system by an airgap or an appropriate backflow prevention assembly in accordance with state plumbing regulation. Additionally, all pressure relief valves and the thermal expansion devices are in compliance with state plumbing codes.
2. No cross connection between the public drinking water supply and a private water source exists. Where an actual air gap is not maintained between the public water supply and private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester.
3. No connection exists which would allow the return of water used for condensing, cooling, or industrial processes back to the public water supply.
4. No pipe or pipe fitting which contains more than 8.0% percent lead exists in private plumbing facilities installed on or after July 1, 1988.
5. No solder or flux which contains more than 0.02% percent lead exists in private plumbing facilities installed on or after July 1, 1988.
6. No plumbing fixture is installed which is not in compliance with the state-approved plumbing code.

(d) Inspection Fees.

Any inspection completed within the city limits shall be charged according to the normal permit fees established. The City Council shall set the fee for inspection systems outside the city limits by resolution.

Sec. 38-133. Closing Provisions.

(a) **Responsibilities.** It is the responsibility of all property owners and their tenants and occupants to abide by the conditions of this ordinance. In the event of any changes to the plumbing system, it is the responsibility of the property owners to notify the City. All costs associated with this ordinance and the purchase, installation, testing and repair of devices is the responsibility of the property owner and their tenants.

(b) **Enforcement and Penalties.**

1. The Director and the City Attorney, and each of them, are hereby authorized to enforce the provisions of this ordinance by any one or more of the enforcement mechanisms set forth in this ordinance.

2. The representatives of the water system or agents of the City charged with enforcement of this ordinance shall be deemed to be performing a governmental function for the benefit of the general public and neither the City, the Director nor representative of the water system or agent of the City engaged in inspection or endorsement activities under this ordinance when acting in good faith and without malice shall ever be held liable for any loss or damage, whether real or asserted, caused, or alleged to have been caused, as a result of the performance of such governmental function.

3. Failure on the part of any customer to discontinue the use of all cross connections and to physically separate cross connections is sufficient cause for the immediate discontinuance of public water service to the premises.

4. Violations. A person commits an offense if:

a. He fails to maintain backflow prevention assemblies in compliance with this section.

b. He fails to comply with a repair order issued by the regulatory authority or the City.

c. Any backflow from premises he owns, operates or manages enters the public water supply system.

d. Fails to pay any fees required by this article.

e. He violates any section of this article.

f. He reinstates water service to premises discontinued or disconnected under this article, except as directed by the regulatory authority.

g. He allows an unregistered tester to perform testing work at their establishment.

h. He tests a backflow prevention assembly within the City without being registered with the regulatory authority and the City.

i. He tests a backflow prevention assembly within the City without being certified by the TNRCC.

5. Temporary disconnection of water service. When the Director believes that an emergency affecting public health or safety exists, the director may immediately discontinue water service. It shall be an emergency affecting public health and safety, if an approved backflow prevention assembly is not installed as required by this chapter or an actual cross connection between the public and private water system exists. The temporary disconnection will continue until the cross connection is eliminated as required by this chapter. Reasonable advance notice and an opportunity to be heard shall be provided to the customer if it is not an emergency. If it is an emergency, notice and an opportunity to be heard shall be provided to the customer as soon as possible after the is connection of such water service.

6. Refusal of water service. Failure to obtain and comply with the appropriate plumbing or building permits shall result in placement of a hold on the issuance of certificate of occupancy and termination of water service provided during construction.

7. Failure to comply with this ordinance is a criminal offense.

8. Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance and this code shall be fined not more than two thousand dollars (\$2000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

9. Any persons violating any of the provisions of this ordinance shall become civilly liable to the City for any expense, loss or damage occasioned by the City by reason of such violation. In addition to the penalties provided herein, the City may recover reasonable attorney's fees, court costs, court reporter fees and other expenses of litigation by appropriate suit against the person found to have violated this ordinance or the orders, rules, regulations, and permits issued hereunder.